IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 18660 of 2004

Between:

M.A.Sathar, S/o.Late Khadheer, aged 37 years, Driver,E.No.342772
R/o.Kudakuda, Mandal, Chivvamla,
Nalgonda Dist.

..... PETITIONER

AND

1 APSRTC, Musheerabad, Hyderabad rep.by its Managing Director
2 APSRTC, Bus Depot., Suryapet, Nalgonda Dist.

rep.by its Depot Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of Mandamus declaring the impugned proceeding No.01/2(5)/00-SRPT dt.16-10-2000 as arbitrary, unjust, and in violation of principles of Art 14, 16 & 21 of the Constitution of India and consequently direct the respondents to restore the deferred increment along with the all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following:

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ORDER:

The petitioner is working as a Driver in the respondent Corporation. He was charged for an irregularity in discharging his duties and causing accident to one boy. He submitted his explanation. The 2nd respondent passed an order on 16.10.2000 without conducting any enquiry by imposing a penalty of withholding one increment for a period of
one year, which shall have effect on future increments of the petitioner.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the 2nd respondent is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of withholding one increment for a period of one year with cumulative effect, imposed by the 2nd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as withholding one increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Managing Director,

APSRTC, Musheerabad, Hyderabad

2. The Depot Manager, APSRTC,

Bus Depot, Suryapet, Nalgonda District

3. Two CD copies.